

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

2008 MAR 31 A 10:58

ALFONSO NORMAN,
Petitioner,

DEBRA P. HACKETT, CLERK
U.S. DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
Civil Action No. 2:07cv893 MEF

vs.

UNITED STATES OF AMERICA,
Respondent.

PETITIONER'S REPLY TO THE GOVERNMENT RESPONSE TO HIS
§ 2255 MOTION AND JUDICIAL NOTICE THAT UNITED STATE'S
DISTRICT COURT PREMATURELY EXERCISED JURISDICTION OVER
THE SEARCH WARRANT ISSUED AT 2429-E. 4th STREET AND
PROPERTY SEIZED PURSUANT TO IT.

Comes Now the Petitioner Alfonso Norman in the above style case, reply to the Government's response to the petitioner's § 2255 Motion.

The petitioner respectfully request this Court to conduct "fairness", straight down the middle on either side on its merit of by proof by a preponderance of the evidence standard in petitioner's civil proceeding. With the assurance of the Supreme Court's ruling in Haines v. Kerner, 404 U.S. 519, 30 L.Ed.2d 652, 92 S.Ct. 594 (1972), stating the allegation of a pro-se complaint must be viewed less stringent standards than formal pleadings drafted by Lawyers.

I. Procedural history And Statement of the Facts pertaining to the claims made in petitioner § 2255 motion.

A. The Arrest:

On the afternoon of 09/25/2003, Coporal J.T. Conway Member of the Montgomery Police Department claimed he received a telephone call from an anonymous female

tipster, stating that drugs was being sold at 2429-E. Fourth Street in Montgomery. After receiving the anonymous tip, Conway assembled a group of Montgomery police officers to accompany him to the 4th street residence for surveillance purposed. Conway then asked another officer to call the telephone number that had been provided by the anonymous tipster and to tell whomever answer that the police were coming to the house. The phone call was made but to the wrong house because Conway alleged he wrote the number down wrong so Conway lied and said the petitioner coincidentally exited the 4th street residence and placed a white object into a curbside trash can located on the street in front of the house and returned to the residence. Out of all officers involved in the surveillance no other officer witness this evident and the only other witness which was the next door neighbor testified that she didn't remember the petitioner going to the trash can because it never happen. Nevertheless, the police officers came to the front door open the door up and grabbed the petitioner took everything out of his pocket detained him and officer Conway went out to the trash searched around in it and alleged that he had found some cocaine residue he order the officers to place the petitioner and his co-defendant Andrew James under arrest and that he was going to get a search warrant. The petitioner was placed in the Federal holding facility. See Exhibit A U.S. Department of Justice Report.

B. Affidavit and Search Warrant.

On September 25, 2003 Coporal J.T. Conway swore out an affidavit against petitioner that controlled substances are possibly being kept stored and/or sold in violation of the Code of Alabama 1975, Section 13A-12-211 and 231 at 2429 E. 4th street. The City of Montgomery Municipal Court Judge Les Hayes issued a search

warrant for the premises of 2429-East 4th Street Montgomery, Alabama for the following property; Controlled Substances Paraphenalia, drug related documents, monies, drug records, an any items listed in attachment I If you find the same or any part thereof, to bring it forthwith before me, at my office at Municipal Court, Montgomery County, Alabama; or if the said warrant is issued for violation of a state law, return to any state court. (See Exhibit B. Affidavit and search warrant). The warrant was never returned to any state court instead it was returned to "federal court" in violation of state's statute 12-14-32. Municipal Court Judge Les Hayes didn't have the power to issue a warrant in violation of Federal Law Returnable to Federal Courts the power of Municipal Judges to issue warrants is exclusively governed by § 12-14-32. State v. Brown, 591 So.2d 113 (1991) Ala. This was a violation of defendant 14th and 5th amendment due process rights, Therefore, district court lacked jurisdiction over the search warrant.

C. Search of 2429 E. Fourth Street And Disposition of Property

After the search warrant was approved and signed, officers and agent made entry to the residence at approximately 1800 hours during the search the recovered 3.9 kilograms of cocaine hydrochloride around 2.5 gram of cocaine base two digital scales, assorted papers, Louis vuitton wallet, steel bowl, \$76, 258 in U.S. currency, 1998 Maroon Mercury , Grand Marquis, Bryco 38/380 semi automatic handgun. All of the property seized by Montgomery Police Department officers were turned over to detective Bartlett and Detective Bartlett turned the evidence over to Task Force Agent Wingard, TFA Wingard on his own turned all the Drug Evidence/Property and United States currency/property over to the United States Government specifically the D.E.A./ U.S. Marshalls. Task force Agent Wingard had no

authority or power to turn over evidence/property discovered during a search warrant issued in violation of state law returnable to state court. This was a violation of state statute § 15-5-14, authorizing officer effecting the warrant must retain the property in his possession subject to the order of the court to which he is required to return the proceeding or of the court in which the offense is triable in respect to which the property was taken. This was a violation of the defendant 14th and 5th Amendment due process rights. (see Exhibit C).

D. The Indictment

On October 29, 2003 a grand jury for the Middle district of Alabama returned a four count indictment against the petitioner/defendant Alfonso Norman. The Indictment charged the three defendants with four counts of drug related crimes occurring in Montgomery County in the Middle District of Alabama.

The first two counts of the indictment were conspiracy counts. Count One of the indictment charged that the petitioner and his codefendants, from an unknown date and continuing to about September 2003, conspired with others known and unknown to the grand jury to knowingly and intentionally distribute and possess with the intent to distribute 500 grams or more of a mixture or substance containing a detectable amount of cocaine hydrochloride, a schedule II controlled substance, in violation of 21 U.S.C. § 846, § 841(a)(1), all in violation of 21 U.S.C. 846.

1. Count Two of the indictment charged that Norman and his codefendants, from an unknown date and continuing to on about September 2003, conspired with each other and others known and unknown to the grand jury to knowingly and intentionally distribute and possess with the intent to distribute a mixture of substance containing a detectable amount of cocaine base, or crack cocaine, also a schedule II con-

trolled substance, in violation of 21 U.S.C. § 846.

The third and fourth counts of the indictment charged substantive drug offenses. Count three of the indictment charged that petitioner and his codefendants, from on or about September 25, 2003 knowingly and intentionally possessed with the intent to distribute a mixture and substance containing a detectable amount of cocaine base, or crack-cocaine, also a schedule II controlled substance, in violation of 21 U.S.C. § 841(a)(1).

There was no Drug Quantity, or relevant conduct other than the 500 grams of cocaine hydrochloride charged in the indictment but the District Court submitted 3.5 kilograms to 5,000 kilograms to the jury in its jury instruction which the jury found him guilty of and the District Court sentenced him to this drug amount. This was a 6th Amendment right to notice of a charge violation rendering his sentence unconstitutional and illegal.

E. Pretrial Facts

On or about 9/26/2003 the petitioner retained Attorney Bruce Maddox to represent him in this criminal matter. Counsel Bruce Maddox represented the petitioner at detention hearing and arraignment and shortly after arraignment counsel Thomas Goggins was retained to assist Bruce Maddox as co-counsel. The attorney's had until December 10, 2003 to investigate and file all pretrial motions in accordance with the court arraignment order. On 11/25/003 the attorney's filed a motion to suppress in violation of the 4th amendment and it was denied. The attorneys failed to investigate or raise meritorious constitutional due process violation committed by the Montgomery Police Department against the petitioner specifically returning the warrant to federal court and turning over evidence to the United States Govern-

ment without an order from the State Court Judge deliberately and intentionally Frauding the U.S. District Court and Government. This was a six amendment right to effective assistance of counsel violation.

F. Trial

On or about 2/13/2004 the petitioner was reading over his case and found some discrepancies in the signature on the search warrant that the government provided in discovery and the one the Attorneys used in the motion to suppress. He notified his attorneys his attorneys' filed a motion to reopen the motion to suppress. Not soon after that the defendant called Thomas Goggin, and had a meeting with Bruce Maddox on those occasions he informed them that he was unsatisfied with the lack of investigation and research that were being applied to his case and that I would not be needing them to be filing any more motions on my behalf. The deadline for pretrial motion has past it was 12/10/003 so the attorneys filed a motion to withdraw and it was granted at that time the petitioner retained Attorneys Leonard Arrington and Don Madison and they again filed a motion to suppress and it was denied as time barred and without merits so the trial commenced. After testimony from the prosecution and defense witness the attorney Donald Madison move for judgment of acquittal on several issues. The judgment of acquittals was denied. Trial counsel failed to raise meritorious due process violation committed against petitioner by the Montgomery Police Department and Municipal Court Judge Les Hayes specifically not returning the search warrant to state court and not receiving an order from state court to turn over property seized pursuant to the search

warrant. This was a violation of the petitioner 6th amendment right to effective assistance of counsel.

G. Sentencing

On or about 10/1/2004 petitioner and his counsel Donald Madison went before the Honorable U.S. District Court Judge Mark Fuller for sentencing and at this hearing counsel argued his objections as it pertains to drug quantity that it was foreseeable the judge overruled his objection and found the petitioner offense level was at level 30 and his criminal history was at level III the Judge found the Guideline range was 121-151 the Judge sentence the petitioner to the low end to 121 months. At sentencing counsel Madison failed to object or argue the use of drug quantity by the District Court Judge to find his offense at a level 30 for which (1) drug quantity was obtained by the U.S. District Court by violating the petitioner 5th and 14th Amendment Due Process Rights specifically the search warrant was only returnable to state court and state court never turn over the evidence/property seized pursuant to the warrant that made up the drug quantity to the U.S. Government (2) the indictment in petitioner case never allege 3.9 kilo. The U.S. District Court sentence petitioner to a drug quantity that was not alleged in his indictment this was a violation of petitioner 5th amendment right to due process of law and his 6th amendment right to notice of the charge. At sentencing counsel Donald Madison was ineffective for not raising or objecting or arguing these meritorious constitutional violation there by de-

priving the petitioner out of another 6th amendment constitutional right to effective assistance of counsel.

H. Appeal

A final judgment was entered in petitioner case on or about October 5, 2004. Petitioner timely filed a notice of appeal. The following issues was raised on direct appeal:

1. The district court erred in denying Appellants motion to suppress in violation of appellant's Fourth Amendment rights (2) The evidence was insufficient to support a conviction on Count 1,2,3 and 4 (3) The warrant in the case was signed by a magistrate judge and not a Federal Magistrate judge or state court judge in violation of Rule 41 of the Federal Rules of Criminal Procedure. (4) The District Court erred in denying appellant motion to be tried seperately from his co-defendant. (5) the district court erred in enhancing the sentence by two points for possessing interest in a firearm pursuant to U.S.S.G. 2D1.1(b)(2) in attributing all relevant conduct to appellant, and not granting reduction for minal/minimum role in violation of the constitution and Blakely v. Washington, 159 L.Ed.2d 403, 124 S.Ct. 2531 (2004) and U.S. v. Booker, U.S. 543 220, 160 L.Ed.2d 621 (2005).

The Defendant conviction and sentence was Affirmed on direct appeal. The petitioner now files a motion under § 2255 and issue raised are as follows:

II Clarification of claims Raise in the 2255 Motion.

1. The Defendant claims his conviction was obtained and sentence

illegal imposed by the District Court by use of Evidence illegally obtained by the United States Government by violating petitioner 5th and 14th Amendment Due Process rights, specifically (A) The warrant that was issued at 2429 E. 4th Street was issued by a Montgomery Alabama Municipal Court Judge Les Hayes for violation of State Law Code of Alabama 13A-12-211 and 231, Returnable to any state court instead it was returned to "Federal Court" in violation of state statute 12-14-32, Municipal Court Judge Les Hayes didn't have the power to issue a warrant that was returnable to federal court the power of Municipal Judges to issue warrants is exclusively governed by § 12-14-32.

(B) All of the property seized pursuant to this warrant by the Montgomery Police Department was turned over to the U.S. Government/DEA. Montgomery Police Department Task Force Agent Wingard had no Authority or power to turn over Evidence/property discovered during a search warrant issued in violation of state law returnable to state court. This was a violation of Alabama Law Code of Alabama 15-5-14, authorizing officers effecting the warrant must retain the property in his possession subject to the order of the court to which he is required to return the proceeding or of the court in which the offense is triable in respect to which the property was taken.

(C) Pretrial counsel Thomas Goggin, Bruce MADison, trial/sentencing counsel Don Madison was ineffective for failing to investigate research and raise these due process violations in a timely manner at

pretrial, trial and sentencing. This was a violation of petitioner 6th amendment right to Effective Assistance of Counsel.

(D) The U.S. District Court and government never had jurisdiction over the search warrant and evidence seized pursuant to it.

2. The petitioner claims the U.S. District Court at sentencing violated his 5th amendment right to due process of law by attributing to him at sentencing:

- A. Drug quantity that was not charged in the petitioner Indictment specifically 3.9 kilogram and 2.6 grams of cocaine base where Elements of the offense that should have been charged in the Indictment and proven to the jury beyond a reasonable doubt this again deprived the petitioner of his 6th amendment right to notice of the charge and trial by jury.
- B. A Criminal History category III for which the Government never filed a 851 notice.
- C. A Criminal History category III by a 1990 prior conviction that Defendant pleaded guilty to a void Indictment for which his plea was not knowingly and voluntarily made based upon sufficient factual bases and in the plea colloquy the Judge never apprised the defendant of his constitutional right as required by Boykin v. Alabama the conviction was obtain in violation of petitioner 5th and 6th amendments constitutional rights.
- D. Counsel Madison was inefefctive for not raising these meritorious constitutional claims at sentencing there by violating petitioner 6th amendment right to effective assistance of counsel.

The Government in its response to the petitioner 2255 motion altered and misrepresented the petitioner claims. The petitioner reiterate his claims as a matter of facts.

III. Government Response to Petitioner claims for relief and
Petitioner reply,

- A. The Government assert the petitioner has not met the one-year time limitation so he is time barred.

This argument is moot, and the petitioner request the court to strike the government brief for misleading the court with false information because the government could have easily called or request the records by mail from the 11th Circuit Court or Supreme Court. (See) Judge order 28th day of January, 008.

- B. The Government asserts that the petitioner claims are procedurally barred from review of the merits because (1) they either were raised and decided on direct appeal (2) they could have been raised and decided on direct appeal (3) they petitioner has not established cause for the default and prejudice resulting from the allege errors or the errors resulted in a fundamental miscarriage of justice.

1. As to procedurally bar (1) the claims were raise on direct appeal. The petitioner states as a matter of facts that none of these constitutional violations was raised on direct appeal. (see Government response brief pg 21-22)
2. As to procedurally bar (2) they could have been raised and decided on direct appeal, but they were not.

The petitioner states as a matter of fact that none of his counsels raised these Constitutional violations in the District Court in a pretrial motion at trial or sentence so the record was void of any facts or evidence necessary to prove the merit of petitioner constitutional claims on appeal, furthermore, petitioner raised all of these claims under Ineffective assistance of counsel so they are properly before the District Court and the district court can reach the merits. Massaro v. United States 538 U.S. 500, 155 L.Ed.2d 714, 123 S.Ct. 1690.

3. As to procedurally bar (3) the petitioner has not established cause for the default and prejudice resulting from the allege errors resulted in a fundamental miscarriage of Justice..

The petitioner states this statement is not true in the defendant 2255 motion the petitioner specifically stated the defense counsel was ineffective for not raising these Constitutional Jurisdiction violation, and violation of 6th amendment right to effective assistance of counsel is cause for a procedural default. The defendant also states that because of the error he was prejudice specifically if the warrant and evidence was returned and dispose of properly in accordance with state law. The defendant would have not been convicted and sentence up under the Federal Sentencing scheme. In the federal sentencing scheme the defendant mandatory statutory range was 5-years to 40 and up under the then mandatory guideline range, if petitioner goes to trial his guideline range was 121 month to 151 months and 121 months was a mandatory guideline minimum law, there's no probation or parole. In she State of Alabama if a defendant was convicted of the same crime the defendant statutory range would be 2-years to 20 and a possibility of probation and parole is available. The petitioner states that he could have received probation or the 2-years in the state as to 121 months without the possibility of probation or parole under the Federal scheme. The defendant also states that at trial and sentence he was prejudice by counsel errors if the defense counsel would have raised these constitution jurisdictional violation there would have been no evidence to convict or sentence petitioner furthermore, at

sentencing counsel failure to argue or preserve his 6th amendment right to notice of the charge that the drug quantity that was attributed to the defendant was not charged in the indictment and the 5th amendment requires the district court to sentence the defendant to the charges in his indictment the only drug quantity that was alleged in the indictment was 500 grams but the defendant was held accountable for 3.9 kilogram and around 2.6 grams of Crack which put him at and offense level of 30 which was 121-151 months instead of 63-78 months at level 26 for the 500 grams this resulted in and increase in defendant sentence by 43-58 month the petitioner received 121 months.

(4) The petitioner states that if the courts should choose to procedurally bar his claims would result in a fundamental miscarriage of justice the courts judicial integrity so necessary in the true administration of Justice. A state statute is the law and any person or entity that violates a state statute breaks the law. In the petitioner case state law only authorizes a Municipal Court to issue warrants in violation of state law returnable to state court it was not returned to state court but to Federal Court by the Municipal Court Judge or the Montgomery Police Department. State statute also directs the officer executing the search warrant to keep in his possession items seized pursuant to the warrant in his possession subject to the order of the court for which it is triable in respect to which it was taken. The Montgomery Police Department on it own

turned the evidence over to the U.S. Government without and order from a state court Judge. They deliberately broke the law and committed fraud on the court by executing powers that they did not have furthermore, if the federal courts turn a blind eye on these claims it will be planting the seed to disregard the law and that seed produces lawlessness and corruption and give Police Department the power to act as Judge and Jury to decide where and how harsh a criminal defendant can be punish.

(5) The petitioner will also like to argue that the district court had no jurisdiction of the search warrant issued at 2429-E. 4th Street or the evidence seized pursuant to it by authority of state statute argued (supra). To use at trial and sentence. The District Court lack jurisdiction to sentence defendant to 121 months for drug quantity that was not charged in his indictment. (see) Penn General Casualty Co. v. Common Wealth, 294 U.S. 189, 195, 55 S.Ct. 386, 389, 79 L.Ed. 850 (1935), Kline v. Burke Construction Co., 260 U.S. 226, 229, 43 S.Ct. 79, 81, 67 L.Ed. 226 (1922). \$270,000.00 In United States Currency, plus interest, 1 F.3d 1146 (11th Cir. 1993)

C. The Government Response to Petitioner Ineffective Assistance of Counsel Claims and Petitioner Reply.

1. The Government states that the petitioner has failed to demonstrate his counsel performance was deficient and that the deficient performance prejudiced his case.

The petitioner would like to argue that pretrial counsel Bruce Maddox and Thomas Goggans had until December 10, 2003 to file all

all pretrial motions they failed to investigate, research the law, or request discovery to gather the facts as it pertains to defendant constitutional due process claims that the search warrant was not returned to state court and Municipal court Judges is not authorize by state statute to issue a warrant returnable to federal court and Montgomery Police Department is not authorize by state statute to turn over evidence to the U.S. Government or the district court. Without an order from state court. No counsel with the experience Mr. Maddox and Thomas Goggans would have performed in the manner that the have exposing the defendant to a harsher federal scheme with the mandatory draconian sentencing Guideline as opposed to the lenient descrecionary scheme of the State OF Alabama. argued (supra). The only explanation Mr. Maddox offered is I deliberately made him ineffective so he failed to file the motions and he withdrew from my case. The defendant would like to point out to the courts that at the time of Maddox and Thomas Goggan withdrawal the deadline for filing pretrial motions had past. (see affidavit of Bruce Maddox Exhibit D.) See Huynh v. King, 95 F.3d 1052 (11th Cir.), Kimmelman v. Morrison, 477 U.S. 365, 382-083 106 S.Ct. 2574, 2587, 91 L.Ed. 305 (1986). Counsel Don Madison failed to raise, research, or investigate the petitioner due process claims if counsel Madison would have objected to the use of the evidence at his trial on these Jurisdictional Constitutional due process violation it would have been no evidence to convict petitioner. Furthermore, at trial

during the jury instruction Don Madison should have objected to the use of the drug quantity that was not charged in his indictment in violation of his six amendment right. Counsel Madison still at sentencing failed to object or argue these violations of petitioner Constitutional rights argued (supra), Counsel Madison in his affidavit stated he raised these issues. See Exhibit E. The petitioner states and the record will reflect that none of the issues was raised or argued at trial or sentencing. If it wasn't for counsel deficient performance it would have been no evidence to convict petitioner at trial and at sentencing the petitioner could have received a Guideline Range of 63-78 month sentence instead of a 121-months (see) *Glover v. United States* (2001) 531 U.S. 198, 148 L.Ed.2d 604, 121 S.Ct. 696.

Conclusion

The petitioner concludes that the Montgomery Police Department and Municipal Court Judge took a short cut to obtaining a conviction on the defendant in the harsher federal sentencing scheme, by violating state law, they acted in a capacity and exercise powers that they didn't have there by frauding the district court and U.S. Government to believe that they had jurisdiction over the search warrant and evidence seized pursuant to it. These acts denied the petitioner his 14th and 5th amendment right to due process of law. This is in conflict with the law in the case of *Mapp v. Ohio*, 367 U.S. 643, 6

L.Ed.2d 1081, 81 S.Ct. 1684.

Pretrial, trial and sentencing counsel failed to perform their duty in a manner required by the 6th Amendment, effective assistance of counsel right. The defendant states that he proved the two prongs test that set out in Strickland v. Washington, 466 U.S. 668 (1984). (1) His Counsel performance was deficient, (2) that deficient performance prejudice his case.

The defendant has met the burden for his procedural default which is the defendant has to establish cause for the default and actual prejudice resulting from the alleged error that it was a fundamental miscarriage of justice.

Relief Sought

The Petitioner respectfully request the Courts permission to move for summary judgment on all claims raised in his 2255 motion there by granting it vacating the defendant conviction and sentence and dismissing the charges with prejudice or order defendant to be resentenced. The petitioner alternatively request the court under Rule 8 for an Evidentiary Hearing to prove any disputed facts or law.

CERTIFICATE OF SERVICE

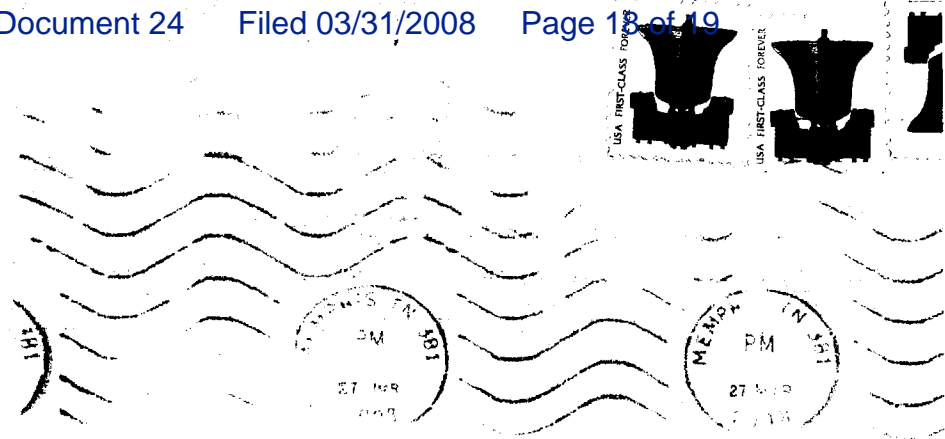
I hereby certify that on March 26, 2008, I filed the foregoing reply and attachments with the Clerk of the Court and the U.S. Attorney by depositing in the prison Mailbox by certified mail

cc: Sandra J. Stewart, Assistant U.S. Attorney
131 Clayton Street
Montgomery, Alabama 36101-0197

Respectfully Submitted,

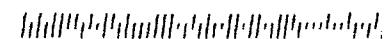
Alfonso Norman
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Legal Mail

Office Of the Clerk
Middle District of Alabama
206 U.S. Courthouse
15 Lee Street
Montgomery, Alabama 36101-0711



FCI, MEMPHIS
1101 JOHN A. DENIE RD.
MEMPHIS, TN 38134 DATE: 3-26-08

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Exh. b.7 A

REPORT OF INVESTIGATION

Page 1 of 8

1. Program Code HD100	2. <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	No. -00-0075	4. G-DEP Identifier [REDACTED]
5. By: TFA H.E. Sisson, JR At: MONTGOMERY, AL (KI)		Title [REDACTED]	
7. <input type="checkbox"/> Closed <input type="checkbox"/> Requested Action Completed <input type="checkbox"/> Action Requested By:		8. Date Prepared 10/01/2003	
9. Other Officers: TFA C.A. WINGARD; MONTGOMERY, AL POLICE SERGEANT M.N. DRUMMOND, CORPORAL D.D. ALEXANDER, CORPORAL J.T. CONWAY, CORPORAL W.S. SIMMONS AND DETECTIVE B.W. BARTLETT			
10. Report Re: ARREST OF Andrew K. JAMES, Alphonson NORMAN AND Capulco PERALTE DURING THE SEIZURE OF EXHIBITS 4 THRU 8 AND ACQUISITION OF EXHIBITS N-3 THRU N-11 ON 09/25/2003			

SYNOPSIS

This DEA 6 documents the arrest of Andrew Kenneth JAMES, Alphonso NORMAN and Capulco PERALTE and the evidence seized and collected during the execution of a search warrant at 2429 East Fourth Street, Montgomery, Alabama on 09/25/2003.

DETAILS

1. On the afternoon of 09/25/2003, Corporal J.T. Conway received a telephone call from an anonymous source who indicated that there was a high level of drug activity occurring at 2429 East Fourth Street in Montgomery, Alabama. The caller further stated that the intensity of this drug activity always increased when a black male arrived at the residence driving a maroon vehicle.
2. This anonymous caller also said that when this maroon vehicle arrived at the residence, it always backed up to the home making the notation of the license number by the caller impractical. During this call to Corporal Conway, the caller said that the maroon vehicle had just arrived at the residence and was, in fact, parked on the premises in the above described manner.
3. When questioned about the occupants of the residence, the caller stated that there were three black males present on the home's front porch. The caller stated the only subject known to him/her present

11. Distribution: Division NOFD District SARI Other	12. Signature (Agent) TFA H.E. Sisson, JR. [Signature] 14. Approved (Name and Title) W. MARSHALL SIMONS GROUP SUPERVISOR [Signature]	13. Date 10/01/2003 15. Date 10/02/2003
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DEA Form - 6
(Jul. 1996)

DEA SENSITIVE
Drug Enforcement Administration

3 - Originating Office

This report is the property of the Drug Enforcement Administration.
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Previous edition dated 8/94 may be used.

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REPORT OF INVESTIGATION (Continuation)	1. File No. KI-00-0075	2. G-DEP Identifier [REDACTED]
	2. File Title [REDACTED]	
4.		
5. Program Code HD100	6. Date Prepared 10/01/2003	

at the residence was a black male known only as "Scooter." The caller also knew the phone number of the residence to be 334-262-3477.

4. After terminating this phone call, Corporal Conway and other members of HIDTA and the Montgomery Police Department's Special Operations Division drove to the residence and established positions nearby allowing them to surveill the activity there. Corporal Conway noted that the maroon vehicle described by the caller was present at the residence and parked in the reported manner. Other vehicles present included a white Honda Accord, a black Jaguar and a green four door vehicle.
5. After watching the residence for a short period of time, Corporal D.D. Alexander was directed to place an undercover phone call to the residence and tell whoever answered that he had just heard that Police Officers were en route to the residence. Immediately upon terminating that undercover phone call, Corporal Alexander called Corporal Conway on the radio and advised that contact had been made with an unknown black male. During this exchange on the radio, Corporal Conway observed a black male known to him as Alphonso NORMAN aka SCOOTER exit the front door of the residence and discard an unknown item in the trash can on the street curb.
6. As NORMAN was walking back to the residence, the surveilling Officers and Agents approached him. Corporal Conway then advised NORMAN about the phone call he had received earlier and informed NORMAN of his concern about the drug activity that was reportedly occurring at the residence. Corporal Conway stated NORMAN became uncooperative and denied the Officers his consent for them to search the residence.
7. NORMAN then turned as if he was going to re-enter the front door of the residence. However, before he could clear the door's threshold, Andrew Kenneth JAMES walked through the front door and onto the front porch. While other Officers were talking with NORMAN and JAMES, Corporal Conway walked to the trash can on the street curb to determine what NORMAN had discarded.

REPORT OF INVESTIGATION

(Continuation)

1. File No.

KI-00-0075

2. G-DEP Identifier

2. File Title

4.

5. Program Code

HD100

6. Date Prepared

10/01/2003

8. Inside the trash can, Corporal Conway located a plastic bag that contained a paper towel further containing what appeared to be traces of cocaine hydrochloride. Corporal Conway field tested a portion of that evidence with positive results indicating the presence of cocaine. At that point, NORMAN and JAMES were secured while a search warrant for the residence was obtained. During the time Corporal Conway was preparing the search warrant affidavit for a Judge's signature, Sergeant M.N. Drummond called him and advised that a third black male, identified as Capulco PERALTE, had also been inside the residence.
9. After the search warrant was approved and signed, Officers and Agents made entry to the residence at approximately 1800 hours. During the course of that search, drug evidence, paraphernalia, currency and a firearm were located. These items will be documented in their appropriate locations within this report.
10. NORMAN, JAMES, and PERALTE were subsequently arrested and placed in the Montgomery Municipal Jail to await their Initial Appearance in the Middle District of Alabama.

CUSTODY OF DRUG EVIDENCE

1. Exhibit 4 is a DEA evidence bag containing approximately 31.90 gross grams of a white powder believed to be cocaine hydrochloride inside a paper napkin and a small plastic bag. Exhibit 4 was discarded into a trash can on the street curb by Alphonso NORMAN at 2429 East Fourth Street on 09/25/2003. Exhibit 4 was removed from the trash can by Corporal Conway and field tested with positive results for cocaine. Corporal Conway turned Exhibit 4 over to Detective B.W. Bartlett for inventory purposes. Detective Bartlett turned Exhibit 4 over to TFA Wingard the same evening. TFA Wingard sealed Exhibit 4 inside the DEA evidence bag and placed it inside the Montgomery HIDTA drug vault where it remained until it was sent to the DEA laboratory for further analysis.

REPORT OF INVESTIGATION

(Continuation)

1. File No.

KI-00-0075

2. G-DEP Identifier

2. File Title

4.

5. Program Code
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6. Date Prepared
10/01/2003

2. Exhibit 5 is a DEA evidence bag containing approximately 3,142.49 gross grams of what is believed to be cocaine hydrochloride packaged inside three brick size packages and two individually packaged clear plastic bags. Exhibit 5 was located by Sergeant M.N. Drummond in the clothes dryer of the laundry room of 2429 East Fourth Street, Montgomery, Alabama during a search warrant on 09/25/2003. Sergeant Drummond turned over Exhibit 5 to Detective Bartlett for inventory purposes. Detective Bartlett field tested a portion of one of these packages comprising Exhibit 5 with positive results indicating the presence of cocaine. Detective Bartlett turned Exhibit 5 over to TFA Wingard later the same evening. TFA Wingard sealed Exhibit 5 inside a DEA evidence bag and placed it inside the Montgomery HIDTA drug vault where it remained until it was sent to the DEA Laboratory in Dallas, Texas for further analysis.
3. Exhibit 6 is a DEA evidence bag containing a ziplock bag further containing approximately 1,381.81 gross grams of a compressed white powder believed to be cocaine hydrochloride inside another ziplock bag which contained an unknown substance consistent with some type of industrial or automotive grease. Exhibit 6 was located underneath the couch in the den of 2429 East Forth Street, Montgomery, Alabama by Sergeant Drummond during the search warrant at that residence on 09/25/2003. Sergeant Drummond turned Exhibit 6 over to Detective Bartlett for inventory purposes. Detective Bartlett turned Exhibit 6 over to TFA Wingard later the same evening. TFA Wingard sealed Exhibit 6 inside the DEA evidence bag and placed it inside the Montgomery HIDTA drug vault where it remained until it was sent to the DEA Laboratory in Dallas, Texas for further analysis.
4. Exhibit 7 is a DEA evidence bag containing a ziplock bag further containing an unknown type grease similar to that used on other drug exhibits seized during this search warrant. Exhibit 7 was located inside the washing machine in the laundry room by Sergeant Drummond during the search warrant at 2429 East Fourth Street, Montgomery, Alabama on 09/25/2003. Sergeant Drummond turned Exhibit 7 over to Detective Bartlett for inventory purposes. Detective Bartlett

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REPORT OF INVESTIGATION <i>(Continuation)</i>	1. File No. KI-00-0075	2. G-DEP Identifier [REDACTED]
	2. File Title [REDACTED]	
4.		
5. Program Code HD100	6. Date Prepared 10/01/2003	

turned Exhibit 7 over to TFA Wingard later the same evening. TFA Wingard sealed Exhibit 7 inside the DEA evidence bag and placed it inside the Montgomery HIDTA drug vault where it remained until it was sent to the DEA Laboratory in Dallas, Texas for further analysis.

5. Exhibit 8 is a DEA evidence bag containing approximately 26.38 gross grams of an off-white substance believed to be cocaine base. Exhibit 8 was located by Sergeant Drummond in a kitchen cabinet during a search warrant at 2429 East Fourth Street, Montgomery, Alabama on 09/25/2003. Sergeant Drummond turned Exhibit 8 over to Detective Bartlett for inventory purposes. Detective Bartlett turned Exhibit 8 over to TFA Wingard later the same evening. TFA Wingard sealed Exhibit 8 inside the DEA evidence bag and placed it inside the Montgomery HIDTA drug vault where it remained until it was sent to the DEA Laboratory in Dallas, Texas for further analysis.

CUSTODY OF NON-DRUG EVIDENCE

1. Exhibit N-3 is a DEA evidence bag containing one Slimline digital scale. Exhibit N-3 was located by Sergeant Drummond on the washing machine in the laundry room during the search warrant at 2429 East Fourth Street, Montgomery, Alabama on 09/25/2003. Sergeant Drummond turned Exhibit N-3 over to Detective Bartlett for inventory purposes. Detective Bartlett turned Exhibit N-3 over to TFA Wingard later the same evening. TFA Wingard will maintain custody of Exhibit N-3 until it can be transferred to the Montgomery HIDTA Non-Drug Evidence Custodian for safekeeping.
2. Exhibit N-4 is a DEA evidence bag containing one Tanita digital scale. Exhibit N-4 was located by Sergeant Drummond in the kitchen cabinet over the stove during the search warrant at 2429 East Fourth Street, Montgomery, Alabama on 09/25/2003. Sergeant Drummond turned Exhibit N-4 over to Detective Bartlett for inventory purposes. Detective Bartlett turned Exhibit N-4 over to TFA Wingard later the same evening. TFA Wingard will maintain custody of Exhibit N-4

REPORT OF INVESTIGATION <i>(Continuation)</i>	1. File No. KI-00-0075	2. G-DEP Identifier [REDACTED]
	2. File Title [REDACTED]	
4.		
5. Program Code HD100	6. Date Prepared 10/01/2003	

until it can be transferred to the Montgomery HIDTA Non-Drug Evidence Custodian for safekeeping.

3. Exhibit N-5 is a DEA evidence bag containing assorted paper documents. Exhibit N-5 was located by Detective Bartlett on the living room cabinet. Detective Bartlett logged Exhibit N-5 on an evidence inventory sheet before turning it over to TFA Wingard later the same evening. TFA Wingard will maintain custody of Exhibit N-5 until it can be transferred to the Montgomery HIDTA Non-Drug Evidence Custodian for safekeeping.
4. Exhibit N-6 is a DEA evidence bag containing one Louis Vuitton wallet further containing assorted credit cards. Exhibit N-6 was located in a flower pot in the den behind the television by TFA Wingard during the search warrant at 2429 East Fourth Street, Montgomery, Alabama. TFA Wingard turned Exhibit N-6 over to Detective Bartlett for inventory purposes. Detective Bartlett returned Exhibit N-6 to TFA Wingard later the same evening. TFA Wingard will maintain custody of Exhibit N-6 until it can be transferred to the Montgomery HIDTA Non-Drug Evidence Custodian for safekeeping.
5. Exhibit N-7 is a large stainless steel bowl. Exhibit N-7 was located by Sergeant Drummond underneath the kitchen sink during the search warrant at 2429 East Fourth Street, Montgomery, Alabama on 09/25/2003. Sergeant Drummond turned Exhibit N-7 over to Detective Bartlett for inventory purposes. Detective Bartlett turned Exhibit N-7 over to TFA Wingard later the same evening. TFA Wingard will maintain custody of Exhibit N-4 until it can be transferred to the Montgomery HIDTA Non-Drug Evidence Custodian for safekeeping.
6. Exhibit N-8 is \$70,782.00 in assorted United States Currency. Exhibit N-8 was located by Detective Bartlett in the rear right bedroom secreted inside the left bed post. Exhibit N-8 was counted and inventoried by Detective Bartlett. Detective Bartlett turned Exhibit N-8 over to TFA Wingard later the same evening. TFA Wingard recounted Exhibit N-8 before converting it into a Cashier's check.

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REPORT OF INVESTIGATION

(Continuation)

1. File No.
KI-00-0075

2. G-DEP Identifier
[REDACTED]

2. File Title [REDACTED]

4.

5. Program Code
HD100

6. Date Prepared
10/01/2003

TFA Wingard maintained custody of Exhibit N-8 until it could be turned over to the Montgomery DEA Seized Money Custodian for safekeeping.

7. Exhibit N-9 is \$2,575.00 in assorted United States currency. Exhibit N-9 was located by Corporal Conway in the possession of Alphonso NORMAN during the execution of a search warrant at 2429 East Fourth Street, Montgomery, Alabama on 09/25/2003. Detective Bartlett counted and inventoried Exhibit N-9 before turning it over to TFA Wingard later the same evening. TFA Wingard recounted Exhibit N-9 before converting it to a Cashier's check. TFA Wingard maintained custody of Exhibit N-9 until it could be turned over to the Montgomery DEA Seized Money Custodian for safekeeping.
8. Exhibit N-10 is \$2,901.00 in assorted United States currency. Exhibit N-10 was located inside the washing machine in the laundry room by Sergeant Drummond during the search warrant at 2429 East Fourth Street, Montgomery, Alabama on 09/25/2003. Sergeant Drummond turned Exhibit N-10 over to Detective Bartlett for inventory purposes. Detective Bartlett counted Exhibit N-10 before turning it over to TFA Wingard later the same evening. TFA Wingard recounted Exhibit N-10 before converting it to a Cashier's check. TFA Wingard maintained custody of Exhibit N-10 until it could be turned over to the Montgomery DEA Seized Money Custodian for safekeeping.
9. Exhibit N-11 is a 1998 maroon Mercury Grand Marquis driven by Capulco PERALTE. Exhibit N-11 was located at 2429 East Fourth Street, Montgomery, Alabama by Corporal Conway. Exhibit N-11 was seized after discovering two compartments hidden by mechanical means inside the vehicle.
10. Also seized during this search warrant was a Bryco .38/.380 semi-automatic handgun, serial number 1250515, with one magazine and six bullets. This handgun was located in the living room closet by Corporal S. Simmons during the search warrant at 2429 East Fourth Street, Montgomery, Alabama on 09/25/2003. Corporal Simmons turned this handgun over to Detective Bartlett for inventory purposes. Detective Bartlett turned the handgun over to TFA Wingard later the

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	2. File Title [REDACTED]	
4.		
5. Program Code HD100	6. Date Prepared 10/01/2003	

same evening. TFA Wingard maintained custody of the handgun until it was transferred to an Agent with the Bureau of Alcohol, Tobacco and Firearms for further investigation.

INDEXING

1. NORMAN, Alphonso: [REDACTED]
2. JAMES, Andrew Kenneth: [REDACTED]
3. PERALTE, Capulco: [REDACTED]

REPORT OF INVESTIGATION

Page 1 of 1

1. Program Code HD100	2. Cross File <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Related Files	3. File No. KI-00-0075	4. G-DEP Identifier [REDACTED]
5. By: TFA H.E. SISSON, JR At: MONTGOMERY, AL (KI)			6. File Title [REDACTED]	
7. <input type="checkbox"/> Closed <input type="checkbox"/> Requested Action Completed <input type="checkbox"/> Action Requested By:			8. Date Prepared 10/30/2003	
9. Other Officers:				
10. Report Re: GRAND JURY INDICTMENT OF Andrew Kenneth JAMES, Alphonso NORMAN AND Capulco PERALTE IN THE MIDDLE DISTRICT OF ALABAMA ON 10/29/2003				

DETAILS

- On 10/29/2003, TFA Sisson presented testimony to a Grand Jury in the Middle District of Alabama concerning Andrew Kenneth JAMES, Alphonso NORMAN and Capulco PERALTE. The United States Government was represented by Assistant United States Attorney Todd A. Brown.
- The Government sought a four count Indictment on all three defendants. The Grand Jury returned with a True Bill, as requested, for Conspiracy to Possess Cocaine Hydrochloride, Conspiracy to Possess Cocaine Base, Possession With Intent to Distribute Cocaine Hydrochloride and Possession With Intent to Distribute Cocaine Base on JAMES, NORMAN and PERALTE.

INDEXING

- NORMAN, Alphonso: [REDACTED]
- JAMES, Andrew Kenneth: [REDACTED]
- PERALTE, Capulco: [REDACTED]

11. Distribution: Division NOFD District SARI Other	12. Signature (Agent) TFA H.E. SISSON, JR. [Signature] 14. Approved (Name and Title) W. MARSHALL SIMONS GROUP SUPERVISOR [Signature]	13. Date 10/30/2003 15. Date 10/30/2003
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Exhibit B

**AFFIDAVIT IN SUPPORT OF A
SEARCH WARRANT
KNOCK SEARCH WARRANT**

CITY OF MONTGOMERY
COUNTY OF MONTGOMERY
STATE OF ALABAMA

I, Corporal J. T. Conway, state the following is true and correct:

I am a duly authorized Police Officer for the City of Montgomery. I have been employed as a Police Officer for 14 years and have spent the last 9 years in the Narcotics Bureau. I have reason to believe and do believe that controlled substances, are being kept, stored and/or sold from within 2429 East 4th Street, Montgomery, Alabama. The controlled substances are possibly being kept, stored and/or sold by a black male Alfonzo Norman, DOB . This is in violation of the Code of Alabama 1975, Section 13A-12-211, 212 and 231. Probable cause for this search warrant is as follows:

On September 25, 2003, Corporal J. T. Conway received a telephone call from a subject who will hereinafter be referred to as "A". "A" advised that he/she knew of drug activity at 2429 East 4th Street, Montgomery, Alabama. "A" advised that he/she knew that the drug activity always picked up when a black male subject driving a maroon vehicle arrived at the residence. "A" advised that the vehicle always backed up beside the residence and that he/she was unable to obtain the tag number. "A" advised that the telephone number to the residence was 334-262-3477.

Corporal J. T. Conway and other members of the Special Operations Division went to the residence to investigate. Corporal D. D. Alexander called the telephone number at the residence and told the subject that answered the phone that the police were on the way to the residence. Corporal Conway was parked in a location to watch the residence when the telephone call was made. Corporal Conway observed Alfonzo Norman exited the residence and walked to the trash can that was placed on the street. Alfonzo placed something in the trash can and returned to the residence.

Corporal Conway and other members of the Narcotics Bureau approached the residence. Alfonzo Norman, Andrew Kenneth James and Capolco Peralte were inside the residence. Corporal Conway told Norman why the officers were at his residence and he became very defensive and said that he wanted a lawyer. Corporal Conway walked to the trash

Case 2:07-cv-00893-MEF-SRW Document 24-3 Filed 03/31/2008 Page 2 of 3
can that was placed on the street. After looking in the can, Corporal Conway located a
paper towel that contained a quantity of what was believed to be crack cocaine. Corporal
Conway field tested the substance and it field tested positive for cocaine.

Further probable cause being that Alfonzo Norman and Andrew Kenneth James are
known drug dealers in the Montgomery, Alabama area.

This information is based on my experience and the experience and assistance of other
law enforcement officers and is made for the purpose of securing a search warrant for
2429 East 4th Street, Montgomery, Alabama, for cocaine and any other controlled
substances, to include: precursors, drug paraphernalia, drug buy money, drug monies,
documents, and any items listed in attachment I.

AND ANY VEHICLES AT
THE RESIDENCE, JR

Sworn before and subscribed to by me LES HAYES III, Judge of the
Municipal Court of Montgomery, Alabama on September 25, 2003.

JT #258

Corporal J. T. Conway, ID #258
Montgomery Police Department
Montgomery, Alabama

Les Hayes III

Municipal Court Judge
Municipal Court
Montgomery, Alabama

SEARCH WARRANT

STATE OF ALABAMA)
COUNTY OF MONTGOMERY)
CITY OF MONTGOMERY)


TO ANY SHERIFF, DEPUTY, MUNICIPAL OFFICER OR CHIEF OF POLICE:

Proof of affidavits which are attached hereto and incorporated by reference, having been made this day before me, by Corporal J. T. Conway with the Special Operations Division, Narcotics and Intelligence Bureau of the Montgomery Police Department, Montgomery, Alabama. You are hereby commanded to make immediate search of the premises of:

2429 East 4th Street, Montgomery, Alabama.

For the following property: controlled substances, controlled substance paraphernalia, drug related documents, monies, drug records, and any items listed in Attachment I. If you find the same or any part thereof, to bring it forthwith before me, at my office at Municipal Court, Montgomery County, Alabama; or if the said warrant is issued for violations of a state law, return the same to any State Court.

Dated this 25 day of Sept., 2003.



Judge, Municipal Court
City of Montgomery
Montgomery, Alabama



NARCOTICS & INTELLIGENCE BUREAU **EVIDENCE/PROPERTY INVENTORY**

Exhibit C

KI-00-0075

The following item(s) were seized/received by the Montgomery Police Department subsequent to a: (circle one) **SEARCH WARRANT, CONSENT SEARCH, or ADMINISTRATIVE INVENTORY.** These items were inventoried by Blk Barthelt #845, a member of the Narcotics and Intelligence Bureau.

ADDRESS OBTAINED: 2429 East Fourth

DATE: 9-25-03

TIME OF ENTRY: 1800

TIME OF EXIT: 2015

PAGE 1 of 2

ITEM#	DESCRIPTION OF ITEM SEIZED OR RECEIVED	LOCATION ITEM FOUND	TIME	OFFICER
1	Approx 2.9 grms of crack cocaine	Top Shelf Kitchen cabinet	1830	MND
2	Bryco .38 / 380 Auto serial # 1250515 w mag 6 rounds	Living Room Closet		WSS
3	3-one kilo packages containing powder cocaine	Laundry room Dryer	1805	MND
4	2-zip lock bags w - grease contains Approx 1 kilo powder cocaine	Back Bedroom Couch	1815	MND
5	Zip lock bag containing grease	Laundry Room Washing machine	1805	MND
6	Slimline digital scale	Laundry Room Wash machine	1805	MND
7	Tanita digital scale	Kitchen cabinet over stove	1920	MND
8	Stainless steel Bowl	Under Sink in Kitchen	1920	MND
9	Assorted Paper documents	Living Room cabinet	1830	BLB
10	92-\$1, 572-\$5, 718-\$10 2320-\$20, 61-\$50, 112-\$100 Total \$ 70,772 U.S. currency	Back right Bedroom left Bed post	1805	BLB
11	Wallet containing 6 \$50's w/ID card	Back Bedroom floor	1825	CR 386

By signing below I certify that I have received a copy of the inventory of item(s) as identified above.

SIGNATURE OF RECEIVER: Not Present

DATE & TIME: _____

I certify that the above inventory accurately reflects the items received or removed from the listed location.

SIGNATURE OF EVIDENCE OFFICER: Blk Barthelt #845

DATE & TIME: 9-25-03

000067 2015 hours

Exhibit D

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ALPHONSO NORMAN,

Movant,

V.

UNITED STATES OF AMERICA,*

Respondent.

*

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CASE NO. 2:07-CV-893-MEF

AFFIDAVIT OF BRUCE MADDOX

STATE OF ALABAMA)

:

MONTGOMERY COUNTY)

BEFORE ME, the undersigned notary public in and for the State of Alabama at Large, personally appeared Bruce Maddox, whom after first being duly sworn by me, did depose and state as follows:

1. At the time of my representation of Mr. Norman, I was co-counsel with Thomas M. Goggans, Esquire. During our representation of Norman, a Motion to Suppress was drafted by Mr. Goggans and filed, relating to the search and seizure leading to the charges in the case. After the hearing of that Motion to Suppress, other issues regarding the search warrant arose, including discrepancies in various copies of the search warrants. We were in the process of raising new issues and continuing our investigation of the search warrant when Mr. Norman retained other counsel.

2. Mr. Norman then made unreasonable demands of Mr. Goggans and me, including trying to assert control over our professional judgment and obligations. As a result of same, there was a breakdown in the attorney-client relationship. Among his "instructions" to me was the provision that I could not file further pleadings without his prior approval, which I took to mean, among other

things, the approval of his new attorney. The communication was in a rude and offensive tone. I immediately ceased attempts to investigate and to amend pleadings to conform to the results of investigations. I moved to withdraw and my motion was granted. Mr. Norman later told me that his new attorney had told him that he could behave toward me in the manner that he did with impunity because the Court would not permit me to withdraw.

3. At the time of my withdrawal, Mr. Norman was represented by other counsel who had ample time to assert the claims that he contends were not asserted. At the time of my withdrawal, Mr. Norman had INTENTIONALLY ended my ability to function effectively as his attorney.

s/Bruce Maddox
Bruce Maddox (MAD013)
6728 Taylor Court
Montgomery, Alabama 36117
Phone: (334) 244-7333
Fax: (334) 260-9600
retrocam@aol.com

SWORN TO and SUBSCRIBED before me, a notary public in and for State of Alabama at Large, on the 25th day of October, 2007.

s/Carolyn L. Rayburn
NOTARY PUBLIC
My Commission Expires 02/17/2010

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of October, 2007, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to appropriate parties. A copy of same will be sent, via United States mail, postage prepaid, to the following:

Alphonso Norman Reg No. 11288-002
Memphis Federal Correctional Institution
Inmate Mail/Parcels
P.O. Box 34550
Memphis, TN 38134

s/Bruce Maddox
Of Counsel

Exhibit E

**IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

ALPHONSO NORMAN,
Movant,
vs.
UNITED STATES OF AMERICA
Respondent.

RESPONSE TO 28 USC 2255 MOTION OF ALPHONSO NORMAN

STATE OF ALABAMA)
 :
MONTGOMERY COUNTY)

AFFIDAVIT OF DONALD G. MADISON

BEFORE ME, the undersigned notary public in and for the State of Alabama at Large, personally appeared Donald G. Madison, whom after first being duly sworn by me, did depose and state as follows:

"Mr. Norman's ineffective assistance claims appear to consist of three (3) issues; namely; (a) the indictment was premised upon a search warrant issued by a city court magistrate (not a court of record) in violation of *Federal Rule of Criminal Procedure* 41(a); (b) the failure to object to relevant conduct regarding 3.9 grams of cocaine; and (c) use

of 1990 conviction for criminal history.

Alphonso Norman's case began when he was arrested on September 26, 2003 (Doc. 2). I filed my Notice of Appearance on March 10, 2004.

1. RESPONSE TO (a).

I filed a Motion for Out of Time Filing of Supplement to Motion to Suppress (Doc 175) on March 24, 2004. The Rule 41 issue was raised therein and in Document 181, Supplement to Motion to Suppress of Mr. Norman.

I also filed an Objection to Magistrate's Recommendation objecting to the denial of this argument (Doc 202). The argument was further preserved by incorporation of same in all subsequent motions I made on Mr. Norman's behalf.

Notwithstanding, the Eleventh Circuit has rejected said argument.

2. RESPONSE TO (b), RELEVANT CONDUCT OBJECTION IN THE SENTENCING.

I raised this issue in approximately the first five (5) pages of the Objection to Pre-Sentence Report of Mr. Norman.

3. RESPONSE TO (c), CRIMINAL HISTORY

I asserted objections to the criminal history (including the 1990 offense) on page 7 of Mr. Norman's Objections to Pre-Sentence Report.

Based upon the above, I, therefore, did not omit to do any of the matters Mr. Norman complained of in his ineffective assistance claims; but, in fact, raised those issues of which Mr. Norman complained in his 28 USC Section 2255 Motion.

AFFIANT:

/S/ Donald G. Madison
DONALD G. MADISON (MAD008)
Attorney at Law
418 Scott Street
Montgomery, Alabama 36104
Telephone (334) 263-4800
Facsimile (334) 265-8511
E-Mail dgmadison@bellsouth.net

SWORN TO and SUBSCRIBED before me, a notary public in and for State of Alabama at Large, on the 22nd day of October, 2007.

/S/ Brenda T. Jarvis
NOTARY PUBLIC
My Commission Expires 07/15/09

CERTIFICATE OF SERVICE

I hereby certify that this document was electronically filed with the Court on October 22, 2007, and that a copy of same shall be electronically served upon the United States Attorney for the Middle District of Alabama, and upon Movant Alphonso Norman, Reg. No 112880002, Memphis Federal Correctional Institution, Post Office Box 34550, Memphis, Tennessee 38134, by depositing a copy of the same in the United States mail, postage prepaid, on this 22nd day of October, 2007.

/S/ Donald G. Madison
Attorney at Law